

REMARKS

Reconsideration and withdrawal of the claim rejections are requested in view of the amendments and remarks herein.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 26, 28-33 and 36-41 are pending in this application. Claims 27, 34 and 35, previously withdrawn from consideration, are now cancelled. Applicants retain the right to pursue the subject matter of claims 27, 34 and 35 in continuing applications.

Claims 26, 28-33 and 36-39 are amended. Support is found throughout the specification. Specifically, support for the amendment to claim 26 can be found in cancelled claim 42. Support for the amendment to claim 31 can be found on page 18, line 6, of the application. The remaining amendments relate to formal matters, and do not alter the scope or meaning of the claims. No new matter is added by this amendment.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. The amendments of and additions to the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. THE REJECTIONS UNDER 35 U.S.C. §112, 1ST PARAGRAPH, ARE OVERCOME

Claims 26, 28-33 and 36-41 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking adequate written description. The rejection is traversed.

Claim 26 has been amended to recite nucleic acid molecules with 85% sequence identity to SEQ ID NO:1, as was formerly recited in claim 42, which was not included in this rejection. Further, claim 31 has been amended to recite the salt concentration in the wash buffer. Hybridization and wash temperatures of 68°C are also recited in claim 31. It should be noted that, although page 3 of the Office Action suggests reciting 65°C and 0.1X SSC, claim 31 recites 68°C and 0.2X SSC, as there is literal support for these limitations on page 17 of the specification.

Claims 26, 28-33 and 36-41 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The rejection is traversed.

The Examiner is thanked for indicating that the specification is enabling for a nucleic acid molecule of SEQ ID NO:1 and nucleic acid molecules with 85% identity to SEQ ID NO:1. Claim 26 has been amended to include that language. Further, as indicated above, claim 31 has been amended to include more specific hybridization conditions.

Consequently, reconsideration and withdrawal of the rejections under 35 U.S.C. §112, first paragraph, are in order and such relief is requested.

III. THE REJECTIONS UNDER 35 U.S.C. §112, 2ND PARAGRAPH, ARE OVERCOME

Claims 26, 28-33 and 36-41 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. The rejections are traversed.

Claim 26 has been amended to recite --sequence identity--, rather than "homology".

All instances where "a" should be --the-- to properly reflect antecedent basis have been corrected.

The Examiner is thanked for his suggestions for improving the language of claims 36-39; those claims have been amended accordingly.

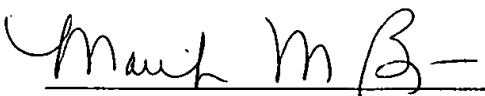
Reconsideration and withdrawal of the rejections under 35 U.S.C. §112, second paragraph, are requested.

CONCLUSION

In view of the remarks and amendments herewith, it is believed that the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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